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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
18/973,067	12/08/2024	Terry Torres	CIP	5833
195408	7590	11/04/2025	EXAMINER	
Terry	Torres		CENTRAL, DOCKET	
			ART UNIT	PAPER NUMBER
			OPAP	
			MAIL DATE	DELIVERY MODE
			11/04/2025	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Payment Deficiency & Show Cause Order: Penalty Determination – Micro Entity (page 1 of 3)	Application No. 18/973,067
	Applicant(s) Torres, Terry
	Examiner Central Docket
	Art Unit PFMU

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The United States Patent and Trademark Office (“USPTO”) has made a preliminary determination that the above-identified application contains a micro entity status error that resulted in the payment of at least one fee in an unentitled reduced amount. The USPTO’s basis for this preliminary determination is set forth below.

Preliminary Determination and Notice of Payment Deficiency

The above-identified application contains a certification of micro entity status. Status as a micro entity is proper only if each applicant qualifies for micro entity status under 37 CFR 1.29, and any other party holding rights in the invention qualifies for small entity status under 37 CFR 1.27. See 37 CFR 1.29(h). The record, including this notice and any attachments, establishes a prima facie case that the submitted certification is in error because one or more of the following are not met.

- The patent application filing requirements of 37 CFR 1.29(a)(2) and (b).
- The gross income requirements of 37 CFR 1.29(a)(3) and (4).
- The institution of higher learning requirements of 37 CFR 1.29(d)(2).
- The small entity status requirements of 37 CFR 1.27 and 1.29(a)(1), (d)(1) or (h).

Reasons:

Applicant has submitted a certification of micro entity status based upon the gross income basis and paid fees in the above-identified application based upon this certification. In order to qualify for micro entity status under the gross income basis, 37 CFR 1.29(a)(2) requires the applicant to certify “[n]either the applicant nor the inventor nor a joint inventor has been named as the inventor or a joint inventor on more than four previously filed patent applications, other than applications filed in another country, provisional applications under 35 U.S.C. 111(b), or international applications for which the basic national fee under 35 U.S.C. 41(a) was not paid.” As explained in MPEP 509.04(a)(I)(B), previously filed applications count against the filing limit even if the previously filed applications did not claim micro entity status. Further, it does not matter how long ago the previous applications were filed or whether the previously filed applications are pending, patented, or abandoned. When the above identified application was filed, an applicant, inventor, or joint inventor was named on more than four previously filed patent applications. This is *prima facie* evidence the submitted certification is in error because the filing limit of 37 CFR 1.29(a)(2) was exceeded.

Accordingly, the payment(s) made in this application based upon the apparently erroneous certification are deficient. The application has been removed from the examiner’s docket (if assigned), or formalities review for the application has been paused, pending resolution of the apparent entity status error.

**Notice of Payment Deficiency;
Show Cause Order: Penalty Determination – Micro Entity**

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Show Cause Order: Penalty Determination

The USPTO has statutory authority to assess a fine when the Director determines an entity has falsely certified micro entity status that resulted in the payment of a fee in an unentitled reduced amount, unless the entity shows that the certification was made in good faith. The amount of the assessed fine shall be not less than three (3) times the amount the entity failed to pay due to the false certification. See 35 U.S.C. 123(f).

In view of its preliminary determination, the USPTO is issuing an order to show cause as to why it should not assess a fine pursuant to 35 U.S.C. 123(f).

A. Options for responding

The applicant is reminded of their duty of candor and good faith under 37 CFR 1.56 and the certifications made under 37 CFR 1.4 and 11.18. The applicant must timely respond in one of the following three ways. Failure to respond will result in abandonment of the application.

I. If the certification was not falsely made, a reply must be submitted that includes an explanation supported by sufficient evidence to rebut the preliminary determination that the application contains a false certification. Relying upon the previously submitted certification or providing a recertification are **NOT** satisfactory responses. When responding, please use document description MES.JUST.

II. If the certification was falsely made, but in good faith, an itemization of the total deficiency owed must be provided under 37 CFR 1.29(k)(1), along with payment for the total deficiency under 37 CFR 1.29(k)(2), and include an explanation supported by sufficient evidence that the certification was made in good faith. Failure to pay the total deficiency will result in abandonment of the application. When submitting the itemization, fee deficiency payment and explanation, please use the Response to Notice of Payment Deficiency & Show Cause Order – Options II and III form available on the USPTO Forms page.

III. If the certification was falsely made and a good faith explanation is not submitted, an itemization of the total deficiency owed and payment for the total deficiency must be provided, along with, as appropriate, an offer to pay any fine once assessed. Failure to pay the total deficiency will result in abandonment of the application. When submitting the itemization, fee deficiency payment, and offer to pay the fine, please use the Response to Notice of Payment Deficiency & Show Cause Order – Options II and III form available on the USPTO Forms page.

B. Additional information

A complete written response is due **two (2) months** from the mailing date of this communication.

Extensions of time are available under 37 CFR 1.136(a).* Failure to respond will result in abandonment of the application.

The USPTO will issue a subsequent notice with a final determination of whether a fine is being assessed and the fine amount based on the record as a whole. Note that a failure to pay any assessed fine will result in referral to the U.S. Treasury for collection of any outstanding fine. Additionally, failure to pay any assessed fine when it is due, after expiration of the time period to pay, may result in sanctions under 37 CFR 11.18 including termination of the proceedings.

Only a registered practitioner authorized by the applicant or the applicant who is not represented by a practitioner can sign a response or make changes to the application. Note that an applicant who is a juristic entity must be represented by a registered practitioner. See 37 CFR 1.31. While the USPTO cannot recommend a registered practitioner, the USPTO provides a searchable list of registered practitioners at oedci.uspto.gov/OEDCI/.

This order is issued without prejudice to the USPTO taking any other appropriate action(s).

Questions about the contents of this notice and order should be directed to the Office of Petitions (OPET) at 571-272-3282.

11/3/2025
Date

/Jacob F Bétit/
Director (Acting), Fraud Mitigation Unit

Attachment(s)



* For patent applications filed under 35 U.S.C. 111(a) and granted special status under the prioritized examination (Track One) program, the applicant is reminded that any request for an extension of time, including an extension of time for the purpose of responding to this notice, will cause the application to be ineligible for further treatment under the prioritized examination program. In addition, a request for an extension of time prior to a decision on a request for prioritized examination status will prevent such status from being granted. See MPEP 708.02(b), subsection (I)(B)(4).

Deficiency Notice and Show Cause Order: Penalty Determination – Micro Entity (page 3 of 3)